

**MASSACHUSETTS**

Public Employee Retirement Administration Commission

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**M E M O R A N D U M**

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Increased COLA pursuant to Section 51 of Chapter 127 of the Acts of 1999

DATE: December 6, 1999

The Legislature has approved Section 51 of Chapter 127 of the Acts of 1999. This Act, which adds G.L. c. 32, § 103(i), allows by local option a cost of living adjustment (COLA) in excess of the percentage increase allowed by G.L. c. 32, § 103(c), up to a maximum of 3% (on the first \$12,000 of the retirement allowance). As it is part of the state budget, this Act is now in effect.

The legislative body of a city, town or county can vote to approve this Act and allow the retirement board to annually grant a COLA in excess of the amount allowed by the existing COLA provision, G.L. c. 32, § 103(c), up to a maximum of 3%. In a town, this Act must be approved by the Town Meeting, in a city by the City Council in accordance with its charter and in a county by the County Retirement Board Advisory Council.

In this first year, the retirement board and legislative body must have accepted Section 51 of Chapter 127 of the Acts of 1999 in order for recipients of a COLA to receive an increase greater than that allowed by the COLA under §103(c).

Once this Act has been accepted, the retirement board elects whether to grant an increased COLA and determines the amount of the increased COLA, up to 3% maximum. This election must be at a public meeting called for the purpose of determining whether to grant the Section 51 increased COLA. This need not be the only item of business at the meeting, but the fact that this issue will be decided must be properly posted. **Additionally, the retirement board must annually notify the appropriate legislative body 30 days before making the election.**

Pursuant to a separate provision of the state budget, any increased COLA under Section 51 for Fiscal Year 2000 must be approved in Fiscal Year 2000 and will be retroactive to July 1, 1999. For FY 2000, if a 1.3% COLA has been previously granted, the maximum additional COLA would be 1.7%.

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In future years, retirement boards may elect to grant a COLA under G.L. c. 103(c) or under G.L. c. 32, § 103(i). It is not necessary for the legislative body to approve Section 51 each year. The legislative body, however, must receive notice 30 days in advance of a publicly posted meeting where the retirement board decides whether to elect to grant an increased COLA. Retirement boards are not required to grant the COLA under the existing § 103(c) or the increased COLA under § 103(i).

The Commission must receive notification of the approval of the acceptance of Section 51 of Chapter 127 of the Acts of 1999 including proof of acceptance by the appropriate legislative body. The Commission must also be notified in writing each time the retirement board elects to grant an increased COLA, including the amount of the increased COLA which will be granted.

As the Act only affects COLAs granted under G.L. c. 32, § 103(i) and not G.L. c. 103(h) [which grants the COLA to noncontributory retirees], recipients of a noncontributory COLA will not receive an increase above that allowed by § 103(c). The Commission intends to address this issue at the next PERAC Legislative Subcommittee meeting.

A copy of these sections is included for your convenience. We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.

## Chapter 127 of the Acts of 1999

SECTION 51. Section 103 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

(i) Notwithstanding the provisions of paragraph (c) to the contrary, the board of any system may, by accepting the provisions of this as hereinafter provided, elect annually to pay a cost-of-living increase greater than the percentage increase, as recommended in the report prepared in accordance with paragraph (f) of subdivision (3) of section 21 for that year, but not greater than 3 per cent. The board shall conduct such election in a public meeting, properly posted, called specifically for such election. The board shall also notify each legislative body at least 30 days before such election.

Acceptance of this subsection shall be by a majority vote of the board of such system, subject to the approval of the legislative body. For the purpose of this section, "legislative body" shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a district, the district members, and, in the case of an authority, the governing body. Acceptance of this subsection shall be deemed to have occurred upon the filing of the certification of such vote with the commission. A decision to accept the provisions of this subsection may not be revoked.

SECTION 218. Notwithstanding the provisions of section 103 of chapter 32 of the General Laws, a retirement board may grant a cost of living adjustment no greater than three per cent for fiscal year 2000 at any time during said fiscal year and said cost of living adjustment shall be retroactive to July 1, 1999; provided, however, that subsection (i) of said section 103 has been accepted by the retirement board and legislative body as defined in said subsection (i). Except as otherwise provided herein, a cost of living adjustment calculation approved under the provisions of this act, shall be subject to the provisions of said section 103 of said chapter 32.